

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Friday, April 13, 2012**

**8:00 a.m. ROLL CALL**

**Members Present:**

Jason J. Rosenberg, M.D., Chairman  
Zachariah P. Zachariah, M.D., Vice Chairman  
Nabil El Sanadi, M.D., 1<sup>st</sup> Vice Chairman  
Elisabeth Tucker, M.D.  
Merle Stringer, M.D.  
Magdalena Averhoff, M.D.  
Donald E. Mullins, Consumer member  
Robert Nuss, M.D.  
Fred Bearison, M.D.  
James Orr, Jr., M.D.  
Gary Wnchester, M.D.  
Brigette Goersch, Consumer Member  
Bradley Levine, Consumer Member  
Onelia Lage, M.D.  
George Thomas, M.D.

**Staff Present:**

Joy A. Tootle, J.D., Executive Director  
Ed Tellechea, Esq., Board Counsel  
Donna McNulty, Esq., Board Counsel  
Nancy Murphy, Paralegal  
Crystal A. Sanford, CPM, Program Operations Administrator  
Chandra Prine, Program Operations Administrator  
Whitney Bowen, Regulatory Specialist III  
Shaila Washington, Compliance Officer

**Prosecuting Attorneys Present:**

Veronica Donnelly, Esquire  
Jonathan Zachem, Esquire  
Diane Kiesling, Esquire  
Carl Gregg, Esquire  
Ian Brown, Esquire  
Bill Stafford, Esquire

**Members Absent:**

**Others Present:**

Statewide Reporting

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1  
2 Ms. Tootle provided the opening remarks and explained the days proceedings to the audience.

3  
4 Dr. Rosenberg welcomed back Dr. Lage who was recently reappointed and welcomed Dr.  
5 Averhoff, the Board's newest member.

6  
7 Dr. Rosenberg explained the Finance & Process Accountability Committee made a suggestion  
8 for members to state why they want to hear a case so PSU can determine the kinds of things that  
9 make the Board reject Settlement Agreements. He said the categories for rejecting a Settlement  
10 Agreement were:

- 11 • Legal reasons
- 12 • Medical reasons
- 13 • Problems with the Settlement Agreement
- 14 • Other

15  
16 Mr. Tellechea advised the Board they do not have the authority to impose community service as  
17 a penalty. He said there were a few cases on the agenda that had community service.

18  
19 A motion was made, seconded and carried unanimously to remove community service from all  
20 Settlement Agreements scheduled for Friday and Saturday.

21  
22 Ms. Sanford was asked to move the Settlement Agreement list around to match the agenda (when  
23 she moves cases on the agenda).

24  
25 Ms. Sanford read the Settlement Agreement list and determined which cases needed to be heard.

### 26 27 **Disciplinary Case Schedule:**

#### 28 29 **Sunil Lalla, M.D., Ft. Myers, FL – Settlement Agreement .....1**

30 Mr. Levine was recused due to participation on the probable cause panel.

31  
32 Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2008) –  
33 Performing or attempting to perform health care services on the wrong patient, a wrong-site  
34 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically  
35 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the  
36 purposes of this paragraph, performing or attempting to perform health care services includes the

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 preparation of the patient and s. 458.331(1)(nn), FS (2008) – Violating any provision of this  
2 chapter or chapter 456, or any rules adopted pursuant thereto.

3  
4 A motion was made, seconded and carried unanimously to approve the Settlement Agreement.

5  
6 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course, 5 hours CME in  
7 risk management, 1-hour lecture

8  
9 **Roger Bassin, M.D., Viera & Melbourne, FL – Settlement Agreement; Case no 2008-**  
10 **09013 .....2**

11 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

12 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) –  
13 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
14 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
15 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
16 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
17 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
18 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
19 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
20 in this paragraph shall be construed to require that a physician be incompetent to practice  
21 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
22 administrative law judge or a final order of the board finding a violation under this paragraph  
23 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
24 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
25 publication by the board must so specify and s. 458.331(1)(m), FS (2007) – Failing to keep  
26 legible, as defined by department rule in consultation with the board, medical records that  
27 identify the licensed physician or the physician extender and supervising physician by name and  
28 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
29 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
30 including, but not limited to, patient histories; examination results; test results; records of drugs  
31 prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

32 A motion was made, seconded and carried unanimously to approve the Settlement Agreement.

33  
34 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course, FMA records  
35 course, 5 hours CME in ethics, 5 hours CME in risk management

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Kanta Davessar, M.D., East Brunswick, NJ – Settlement Agreement .....10**

Mr. Levine was recused due to participation on the probable cause panel.

A motion was made, seconded and carried unanimously to find the Respondent's attorney is a qualified representative.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to approve the Settlement Agreement.

**Penalty imposed:** letter of concern, \$1,000 fine, costs

**Juan Carlos Cucalon, M.D., Miami, FL – Settlement Agreement .....19**

Dr. Stringer and Mr. Mullins were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient and s. 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to approve the Settlement Agreement.

**Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 1-hour lecture

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Ida Joann Gagliardi, M.D., Ft. Myers, FL – Settlement Agreement .....25**

Mr. Levine was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(g), FS (2009) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

A motion was made, seconded and carried unanimously to approve the Settlement Agreement.

**Penalty imposed:** reprimand, \$2,500 fine, costs, Laws and Rules course, restriction – surrender dispensing registration permanently (cannot reapply), but may dispense samples properly marked as such

**Roger Bassin, M.D., Viera & Melbourne, FL – Settlement Agreement; Case no 2010-23273 .....3**

Dr. Bassin was present and represented by counsel.

Mr. Levine was recused due to participation on the probable cause panel.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify.

A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 A motion was made and seconded to offer a counter proposal to impose the same terms except to  
2 impose a reprimand, and CME in ocular plastic surgery including a two hour portion on patient  
3 safety.

4  
5 An amendment was offered to remove the CME altogether. The amendment was accepted.

6  
7 Another amendment was offered to increase the fine to \$10,000. This amendment was also  
8 accepted.

9  
10 The motion carried with one opposed.

11  
12 The Respondent accepted the counter offer on the record.

13  
14 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$10,000 fine,  
15 costs, QA assessment

16  
17 **Steven Leslie Kaplan, M.D., Miami, FL – Settlement Agreement .....4**

18 Dr. Kaplan was present and represented by Monica Rodriguez, Esquire.

19  
20 Dr. Winchester was recused due to participation on the probable cause panel.

21 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
22 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2005-2006) – Notwithstanding s.  
23 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.  
24 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this  
25 paragraph. Medical malpractice shall not be construed to require more than one instance, event,  
26 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice  
27 as defined in s. 456.50. A person found by the board to have committed repeated medical  
28 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
29 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
30 construed to require that a physician be incompetent to practice medicine in order to be  
31 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
32 final order of the board finding a violation under this paragraph shall specify whether the  
33 licensee was found to have committed "gross medical malpractice," "repeated medical  
34 malpractice," or "medical malpractice," or any combination thereof, and any publication by the  
35 board must so specify; and s. 458.331(1)(m), FS (2005-2006) – Failing to keep legible, as  
36 defined by department rule in consultation with the board, medical records that identify the

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 licensed physician or the physician extender and supervising physician by name and professional  
2 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic  
3 or treatment procedure and that justify the course of treatment of the patient, including, but not  
4 limited to, patient histories; examination results; test results; records of drugs prescribed,  
5 dispensed, or administered; and reports of consultations and hospitalizations.

6 A motion was made, seconded and carried with one opposed to reject the Settlement Agreement.  
7 This motion was later recalled.

8  
9 Another motion was made and seconded to reject the Settlement Agreement. The motion carried  
10 with two opposed.

11  
12 A motion was made and seconded to offer a counter proposal to impose the same terms except to  
13 restrict him from treating pediatric patients.

14  
15 An amendment was offered to impose a reprimand instead of a letter of concern. The  
16 amendment was accepted.

17  
18 Another amendment was offered to impose a risk management assessment of his practice. This  
19 amendment was also accepted.

20  
21 Another amendment was offered to impose the original terms with only the restriction. After  
22 discussion, this amendment was accepted.

23  
24 The motion carried with three opposed.

25  
26 The Respondent took seven days to accept or reject the counter offer.

27  
28 **Action taken:** Settlement Agreement rejected, counter offer to impose letter of concern, \$5,000  
29 fine, costs, 5 hours CME in risk management, 10 hours CME in long-term treatment of complex  
30 psychiatric patients, 1 hour CME in ethics, FMA records course, restricted from treating  
31 pediatric patients.

32  
33 **Jack Norden, M.D., Ft. Lauderdale, FL – Voluntary Relinquishment.....5**

34 Dr. Norden was not present, but he was represented by Jon Pellett, Esquire. Mr. Pellett advised  
35 he sent a letter. The Chairman acknowledged the Board received and read the letter and  
36 confirmed that it was part of the record.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1  
2 In case number 2010-05459, Dr. Nuss and Mr. Mullins were recused due to participation on the  
3 probable cause panel. Probable cause was waived in case number 2011-13590.

4 Allegations of the Administrative Complaints: Violation of s. 458.331(1)(t), FS (2007-2009) –  
5 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
6 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
7 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
8 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
9 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
10 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
11 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
12 in this paragraph shall be construed to require that a physician be incompetent to practice  
13 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
14 administrative law judge or a final order of the board finding a violation under this paragraph  
15 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
16 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
17 publication by the board must so specify; s. 458.331(1)(m), FS (2007-2009) – Failing to keep  
18 legible, as defined by department rule in consultation with the board, medical records that  
19 identify the licensed physician or the physician extender and supervising physician by name and  
20 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
21 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
22 including, but not limited to, patient histories; examination results; test results; records of drugs  
23 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s.  
24 458.331(1)(q), FS (2007-2009) – Prescribing, dispensing, administering, mixing, or otherwise  
25 preparing a legend drug, including any controlled substance, other than in the course of the  
26 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed  
27 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,  
28 including all controlled substances, inappropriately or in excessive or inappropriate quantities is  
29 not in the best interest of the patient and is not in the course of the physician's professional  
30 practice, without regard to his or her intent; and s. 458.331(1)(nn), FS (2007-2009) – Violating  
31 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

32 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
33 of license.

34  
35 **Penalty imposed:** license relinquished



April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Jacinta Gillis, M.D., Ft. Myers, FL – Recommended Order.....6**

Dr. Gillis was present but not represented by counsel.

Dr. Rosenberg read the Recommended Order remarks and confirmed all participating members had read the complete record.

**Case number 2008-20061**

Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2008-2009) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(q), FS (2008-2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice,

**April 13-14, 2012**

---

**DRAFT MEETING MINUTES**

1 without regard to his or her intent; and s. 458.331(1)(nn), FS (2008-2009) – Violating any  
2 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

3 Case number 2010-01128

4 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

5 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
6 Administrative Complaint: s. 458.331(1)(m), FS (2008-2009) – Failing to keep legible, as  
7 defined by department rule in consultation with the board, medical records that identify the  
8 licensed physician or the physician extender and supervising physician by name and professional  
9 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic  
10 or treatment procedure and that justify the course of treatment of the patient, including, but not  
11 limited to, patient histories; examination results; test results; records of drugs prescribed,  
12 dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(q),  
13 FS (2008-2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a  
14 legend drug, including any controlled substance, other than in the course of the physician's  
15 professional practice. For the purposes of this paragraph, it shall be legally presumed that  
16 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including  
17 all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the  
18 best interest of the patient and is not in the course of the physician's professional practice,  
19 without regard to his or her intent; and s. 458.331(1)(nn), FS (2008-2009) – Violating any  
20 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

21 A motion was made, seconded and carried unanimously to reject the Respondent exceptions on  
22 the basis that she failed to cite to particular findings in the record.

23  
24 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

25  
26 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

27  
28 A motion was made, seconded and carried unanimously to accept the penalty of the  
29 Recommended Order and to require UF CARES evaluation and compliance to include a pain-  
30 management component and to remove the requirements to pay costs prior to reinstatement

31  
32 A motion was made, seconded and carried unanimously to retain jurisdiction on costs in the  
33 amount of \$81,278.36.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

**Penalty imposed:** suspended until she appears before the Board and demonstrates her ability to practice with reasonable skill and safety; must undergo UF CARES evaluation including pain-management component and comply with recommendations; retain jurisdiction on costs

**Robert James Hertzfeld, M.D., Northwood, OH – Settlement Agreement .....9**

Dr. Hertzfeld was present, but not represented by counsel.

Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.

Mr. Zachem represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose a suspension and require a PRN evaluation. The motion carried.

A motion was made, seconded and carried unanimously to reconsider the previous motion.

A motion was made, seconded and carried with six opposed to impose the terms in the original Settlement Agreement but to change the PRN language to state the Board will determine if the Respondent is safe to practice.

The Respondent accepted the counter offer on the record.

**Penalty imposed:** costs, indefinite suspension until he appears and demonstrates to the Board's satisfaction his ability to practice with reasonable skill and safety; PRN evaluation and compliance; board retains jurisdiction to impose additional terms at reinstatement

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**RECOGNITION:**

Dr. Rosenberg and the Board recognized Donna Brown, PSU, for her 35 years of dedicated service.

**Jose Amado Perez, M.D. – Motion to Vacate Final Order .....37**

Dr. Perez was present but not represented by counsel. There was an error in the Final Order stating he had failed to do three things; however, it was only two things.

A motion was made, seconded and carried unanimously to vacate the Final order.

A motion was made, seconded and carried unanimously to allow him to submit a plan to pay fines and costs in installments to the Probation Committee.

**Action taken:** Final Order vacated; can submit payment plan for fines and costs to Probation Committee

**Mireille Lalanne, M.D., Miami, FL & Nashville, TN – Settlement Agreement .....12**

Dr. Lalanne was present but not represented by counsel.

Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

Mr. Zachem represented the Department and represented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions and s. 458.331(1)(c), FS (2009) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

A motion was made, seconded and carried unanimously to offer a counter proposal to impose revocation.

The Respondent took seven days to accept or reject the counter offer.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 **Action taken:** Settlement Agreement rejected; counter for revocation

2  
3 **Kenneth Forbes Hill, M.D., Union, SC – Settlement Agreement .....13**

4 Dr. Forbes requested his appearance be waived. He was not represented by counsel.

5  
6 A motion was made, seconded and carried unanimously to waive his appearance.

7  
8 Dr. Bearison was recused due to participation on the probable cause panel.

9  
10 Ms. Glenn represented the Department and presented the case to the Board. Allegations of the  
11 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the  
12 authority to practice medicine revoked, suspended, or otherwise acted against, including the  
13 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or  
14 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,  
15 stipulation, consent order, or other settlement, offered in response to or in anticipation of the  
16 filing of administrative charges against the physician's license, shall be construed as action  
17 against the physician's license.

18  
19 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

20  
21 A motion was made and seconded to offer a counter proposal to impose the same terms except to  
22 require a UF CARES evaluation and compliance and require that he cannot apply for  
23 reinstatement until licenses in all jurisdictions are clear and free of all encumbrances.

24  
25 An amendment was offered to require that his license is clear in Virginia first then he is to  
26 undergo his UF CARES evaluation. This amendment was accepted.

27  
28 The Respondent took seven days to accept or reject the counter offer.

29  
30 **Action imposed:** letter of concern, \$2,000 fine, costs, Laws and Rules course, FMA records  
31 course, indefinite suspension until appears before the Board and demonstrates his ability to  
32 practice with reasonable skill and safety including UF CARES evaluation and compliance; board  
33 retains jurisdiction, permanently restricted from performing any type of surgery; must have all  
34 licenses free of all encumbrances before undergoing the evaluation

35  
36 **Carolyn Louise Marasco, M.D., Tampa, FL – Settlement Agreement .....14**

37 Dr. Marasco was present and represented by Bruce Lamb, Esquire.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1  
2 Dr. Stringer and Mr. Mullins were recused due to participation on the probable cause panel.

3 Mr. Brown represented the Department and presented the case to the Board. Allegations of the  
4 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2007) – Notwithstanding s.  
5 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.  
6 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this  
7 paragraph. Medical malpractice shall not be construed to require more than one instance, event,  
8 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice  
9 as defined in s. 456.50. A person found by the board to have committed repeated medical  
10 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
11 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
12 construed to require that a physician be incompetent to practice medicine in order to be  
13 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
14 final order of the board finding a violation under this paragraph shall specify whether the  
15 licensee was found to have committed "gross medical malpractice," "repeated medical  
16 malpractice," or "medical malpractice," or any combination thereof, and any publication by the  
17 board must so specify.

18 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.  
19

20 The Respondent waived attorney fees and costs.  
21

22 A motion was made, seconded and carried unanimously to dismiss the case.  
23

24 **Action taken:** Administrative Complaint dismissed  
25

26 **Cheryl Leigh McLemore, M.D., Orlando, FL – Settlement Agreement.....16**

27 Dr. McLemore was present and represented by George F. Indest, III, Esquire.  
28

29 Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.  
30

31 Ms. Glenn represented the Department and presented the case to the Board. Allegations of the  
32 Administrative Complaint: Violation of s. 458.331(1)(s), FS (2010) – Being unable to practice  
33 medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs,  
34 narcotics, chemicals, or any other type of material or as a result of any mental or physical

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 condition and s. 458.331(1)(hh), FS (2010) – Improperly interfering with an investigation or with  
2 any disciplinary proceeding.

3  
4 Both parties agreed to amend the language in the Settlement Agreement to state the Board will  
5 determine if she is competent to return to practice.

6  
7 A motion was made, seconded and carried unanimously to accept the Settlement Agreement as  
8 amended on the record.

9  
10 **Penalty imposed:** letter of concern, \$1,000 fine, costs, indefinite suspension until she appears  
11 and demonstrates her ability to practice with reasonable skill and safety including PRN  
12 evaluation and compliance; board retains jurisdiction to impose additional terms at reinstatement

13  
14 **M. Hashem Sultan, M.D., Pembroke Pines & Sunrise, FL – Hearing Not Involving**  
15 **Disputed Issues of Material Fact .....18**

16 Dr. Sultan was not present nor was he represented by counsel.

17  
18 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

19 Mr. Zachem represented the Department and presented the case to the Board. Allegations of the  
20 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008) – Notwithstanding s.  
21 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.  
22 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this  
23 paragraph. Medical malpractice shall not be construed to require more than one instance, event,  
24 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice  
25 as defined in s. 456.50. A person found by the board to have committed repeated medical  
26 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
27 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
28 construed to require that a physician be incompetent to practice medicine in order to be  
29 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
30 final order of the board finding a violation under this paragraph shall specify whether the  
31 licensee was found to have committed "gross medical malpractice," "repeated medical  
32 malpractice," or "medical malpractice," or any combination thereof, and any publication by the  
33 board must so specify and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by  
34 department rule in consultation with the board, medical records that identify the licensed  
35 physician or the physician extender and supervising physician by name and professional title  
36 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 treatment procedure and that justify the course of treatment of the patient, including, but not  
2 limited to, patient histories; examination results; test results; records of drugs prescribed,  
3 dispensed, or administered; and reports of consultations and hospitalizations.

4 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

6 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

8 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
9 Statutes as charged.

11 A motion was made, seconded and carried unanimously to impose a reprimand, \$10,000 fine and  
12 a risk management course.

14 A motion was made, seconded and carried unanimously to assess costs in the amount of  
15 \$4,614.63.

17 **Penalty imposed:** a reprimand, \$10,000 fine, costs and a risk management course

19 **Parveen Akhter Malik, M.D., Winter Haven, FL & Bay City, MI – Settlement**

20 **Agreement .....21**

21 Dr. Malik was present and represented by Bruce Lamb, Esquire.

23 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

25 Ms. Glenn represented the Department and presented the case to the Board. Allegations of the  
26 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the  
27 authority to practice medicine revoked, suspended, or otherwise acted against, including the  
28 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or  
29 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,  
30 stipulation, consent order, or other settlement, offered in response to or in anticipation of the  
31 filing of administrative charges against the physician's license, shall be construed as action  
32 against the physician's license and s. 458.31(1)(kk), FS (2010) – Failing to report to the board, in  
33 writing, within 30 days if action as defined in paragraph (b) has been taken against one's license  
34 to practice medicine in another state, territory, or country.

36 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.



April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Penalty imposed:** reprimand, \$3,000 fine, costs, Laws and Rules course, restriction – cannot examine or treat Medicare or Medicaid patients until 3/16/2014; comply with terms of pretrial agreement; if restrictions in pretrial agreement are modified, then Respondent may only treat Medicare or Medicaid patients in Florida under the following restrictions: 1) it's after March 16, 2014 and 2) she appears before Probation Committee for permission to treat Medicare or Medicaid patients

**Gerard Michael Dileo, M.D., Bradenton, FL – Hearing Not Involving Disputed Issues of Material Fact.....22**

Dr. Dileo was present but not represented by counsel. He was accompanied by Anna Paulson, Professor at University of South Florida.

Mr. Mullins was recused due to participation on the probable cause panel.

Mr. Zachem represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(c), FS (2011) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

A motion was made, seconded and carried unanimously to find the Respondent violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to revoke the Respondent's license.

A motion was made, seconded and carried unanimously to waive costs.

**Penalty imposed:** revocation, costs waived

**Gennady G. Vertkin, M.D., Keller, TX – Hearing Not Involving Disputed Issues of Material Fact .....24**

Dr. Vertkin was present and represented by Bill Whitney, Esquire.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1  
2 Dr. J. Rosenberg and Ms. Goersch were recused due to participation on the probable cause panel.  
3 Dr. Zachariah chaired this hearing.  
4

5 Mr. Zachem represented the Department and presented the case to the Board. Allegations of the  
6 Administrative Complaint: Violation of s. 458.331(1)(b), FS (2009) – Having a license or the  
7 authority to practice medicine revoked, suspended, or otherwise acted against, including the  
8 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or  
9 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,  
10 stipulation, consent order, or other settlement, offered in response to or in anticipation of the  
11 filing of administrative charges against the physician's license, shall be construed as action  
12 against the physician's license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board,  
13 in writing, within 30 days if action as defined in paragraph (b) has been taken against one's  
14 license to practice medicine in another state, territory, or country.  
15

16 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.  
17

18 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.  
19

20 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
21 Statutes as charged.  
22

23 A motion was made and seconded to impose a letter of concern, \$1,000 fine, and the Laws and  
24 Rules course.  
25

26 An amendment was offered to impose a \$3,000 fine. This amendment was accepted.  
27

28 The motion carried unanimously.  
29

30 A motion was made and seconded to assess costs in the amount of \$703.40.  
31

32 The Respondent had no objections to the amount.  
33

34 The motion carried unanimously.  
35

36 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws and Rules course  
37

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Revisit Steven Leslie Kaplan, M.D., Miami, FL – Settlement Agreement .....4**

Ms. Rodriguez advised the Board that she and her client are concerned about the proposed restriction on Dr. Kaplan's license. She explained Medicare will drop him due to the restriction and the majority of his patients are Medicare patients. She advised for this reason, they cannot accept the counter offer although he agrees in principle not to treat pediatric patients.

**Ramiro J. Abaunza, M.D., Miami, FL – Settlement Agreement .....17**

Dr. Abaunza was present and represented by Rafael Gaitan, Esquire.

Mr. Levine was recused due to participation on the probable cause panel.

Mr. Stafford represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2010-2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2010-2011) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(nn), FS (2010-2011) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(q), FS (2010-2011) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate  
2 quantities is not in the best interest of the patient and is not in the course of the physician's  
3 professional practice, without regard to his or her intent.

4 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

6 A motion was made, seconded and carried unanimously to offer a counter proposal to impose  
7 revocation.

9 The Respondent rejected the counter offer.

11 **Action taken:** Settlement Agreement rejected; counter offer rejected

13 **Jose Carlos Menendez, A.C.N, M.D. (AKA Jose Carlos Menendez Campos, A.C.N., M.D.)**  
14 **Casselberry, FL– Hearing Not Involving Disputed Issues of Material Fact .....26**  
15 This matter was withdrawn prior to the meeting.

17 **Action taken:** Hearing withdrawn

19 **Tameshwar Ammar, M.D., Brightwaters & Roslyn, NY – Determination of Waiver**  
20 **Hearing.....27**  
21 Dr. Ammar was not present nor was he represented by counsel.

23 Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.

25 Ms. Glenn represented the Department and presented the case to the Board. Allegations of the  
26 Administrative Complaint: Violation of s. 456.072(1)(w), FS (2009) – Failing to comply with the  
27 requirements for profiling and credentialing, including, but not limited to, failing to provide  
28 initial information, failing to timely provide updated information, or making misleading, untrue,  
29 deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure  
30 application.

32 A motion was made, seconded and carried unanimously to find the Respondent has waived his  
33 right to a hearing.

35 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

2  
3 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
4 Statutes as charged.

5  
6 A motion was made and seconded to impose a reprimand, \$3,000 fine, the Laws and Rules  
7 course, require him to update his profile and to notify the Department of his address change.

8  
9 An amendment was offered to require that if he applies for a license in Florida, he must pay his  
10 fines first. The amendment was accepted.

11  
12 The motion for costs was withdrawn.

13  
14 **Penalty imposed:** reprimand, \$3,000 fine, Laws and Rules course, update profile, update  
15 Department regarding address, must pay fine prior to apply for new license in Florida

16  
17 **Paul A. Blair, P.A., Orlando & Lake Mary, FL- Determination of Waiver Hearing**  
18 Mr. Blair was not present nor was he represented by counsel.

19  
20 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

21  
22 Mr. Zachem represented the Department and presented the case to the Board. Allegations of the  
23 Administrative Complaint: Violation of s. 458.331(1)(x), FS (2010) – Violating a lawful order of  
24 the board or department previously entered in a disciplinary hearing or failing to comply with a  
25 lawfully issued subpoena of the department.

26  
27 A motion was made, seconded and carried unanimously to find the Respondent has waived his  
28 right to a hearing.

29  
30 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

31  
32 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

33  
34 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
35 Statutes as charged.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 A motion was made, seconded and carried unanimously to suspend the Respondent's license  
2 until he complies with the previous Final Order.

3  
4 A motion was made, seconded and carried unanimously to assess costs in the amount of \$886.85.

5  
6 **Penalty imposed:** suspended until compliance with previous Final Order, costs

7  
8 **Revisit Steven Leslie Kaplan, M.D., Miami, FL – Settlement Agreement .....4**

9 Ms. Gregg advised the Board that she and Ms. Rodriguez have agreed upon a settlement with the  
10 original terms but without a restriction and instead to have the Final Order contain a stipulated  
11 fact that Respondent agrees practicing child psychology is beyond the scope of his training and  
12 experience.

13  
14 The Board accepted unanimously.

15  
16 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 10  
17 hours CME in long-term treatment of complex psychiatric patients, 1 hour CME in ethics;  
18 stipulated to fact that Respondent agrees practicing child psychology is beyond the scope of his  
19 training and experience

20  
21 **Harry Gene Hunt, M.D., Hattisburg, MS - Determination of Waiver Hearing.....29**

22 Dr. Hunt was present but not represented by counsel.

23  
24 Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.

25  
26 Mr. Zachem represented the Department and represented the case to the Board. Allegations of  
27 the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the  
28 authority to practice medicine revoked, suspended, or otherwise acted against, including the  
29 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or  
30 subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,  
31 stipulation, consent order, or other settlement, offered in response to or in anticipation of the  
32 filing of administrative charges against the physician's license, shall be construed as action  
33 against the physician's license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board,  
34 in writing, within 30 days if action as defined in paragraph (b) has been taken against one's  
35 license to practice medicine in another state, territory, or country.  
36

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 A motion was made, seconded and carried unanimously to find the Respondent has waived his  
2 right to a hearing.

3  
4 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

5  
6 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

7  
8 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
9 Statutes as charged.

10  
11 A motion was made and seconded to impose a letter of concern, suspension until he appears and  
12 demonstrates his ability to practice with reasonable skill and safety; Board retains jurisdiction to  
13 impose additional terms, and \$2,500 fine. This motion was later withdrawn.

14  
15 A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,500  
16 fine, Laws and Rules course and require that he comply with the MS Final Order.

17  
18 The Respondent did not object to the amount of costs, but did request a payment plan. He was  
19 directed to speak to the Compliance Officer.

20  
21 A motion was made, seconded and carried unanimously to assess costs in the amount of \$602.35.

22  
23 **Penalty imposed:** letter of concern, \$2,500 fine, costs, Laws and Rules course, comply with MS  
24 Final Order

25  
26 **Donald R. Crampton, M.D., Miami, FL - Determination of Waiver Hearing .....30**

27 Dr. Crampton was not present nor was he represented by counsel.

28  
29 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

30  
31 Mr. Zachem represented the Department and presented the case to the Board. Allegations of the  
32 Administrative Complaint: Violation of s. 458.331(1)(g), FS (2009) – Failing to perform any  
33 statutory or legal obligation placed upon a licensed physician.

34  
35 A motion was made, seconded and carried unanimously to find the Respondent has waived his  
36 right to a hearing.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

2  
3 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

4  
5 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
6 Statutes as charged.

7  
8 A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,500  
9 fine, and the Laws and Rules course.

10  
11 A motion was made, seconded and carried unanimously to assess costs in the amount of  
12 \$1,583.23.

13  
14 **Penalty imposed:** letter of concern, \$2,500 fine, costs, Laws and Rules course

15  
16 **Sanjeev Grover, M.D., Lutz & Zephyrhills, FL – Determination of Waiver Hearing**31

17 Dr. Grover was not present nor was he represented by counsel.

18  
19 Mr. Levine was recused due to participation on the probable cause panel.

20 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008-2009) –  
21 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
22 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
23 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
24 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
25 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
26 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
27 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
28 in this paragraph shall be construed to require that a physician be incompetent to practice  
29 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
30 administrative law judge or a final order of the board finding a violation under this paragraph  
31 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
32 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
33 publication by the board must so specify; s. 458.331(1)(m), FS (2008-2009) – Failing to keep  
34 legible, as defined by department rule in consultation with the board, medical records that  
35 identify the licensed physician or the physician extender and supervising physician by name and  
36 professional title who is or are responsible for rendering, ordering, supervising, or billing for



April 13-14, 2012

---

## DRAFT MEETING MINUTES

each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s. 458.331(1)(q), FS (2008-2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

Dr. Rosenberg advised the Board received a voluntary relinquishment from Dr. Grover.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

**Penalty imposed:** license relinquished

**Michael John Aruta, M.D., Boca Raton, FL – Determination of Waiver Hearing ...32**

Dr. Aruta was not present nor was he represented by counsel.

Dr. J. Rosenberg and Ms. Goersch were recused due to participation on the probable cause panel.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s. 458.331(1)(q), FS (2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; s. 458.331(1)(t), FS (2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 may not be licensed or continue to be licensed by this state to provide health care services as a  
2 medical doctor in this state. Nothing in this paragraph shall be construed to require that a  
3 physician be incompetent to practice medicine in order to be disciplined pursuant to this  
4 paragraph. A recommended order by an administrative law judge or a final order of the board  
5 finding a violation under this paragraph shall specify whether the licensee was found to have  
6 committed "gross medical malpractice," "repeated medical malpractice," or "medical  
7 malpractice," or any combination thereof, and any publication by the board must so specify; and  
8 s. 458.331(1)(m), FS (2009) – Failing to keep legible, as defined by department rule in  
9 consultation with the board, medical records that identify the licensed physician or the physician  
10 extender and supervising physician by name and professional title who is or are responsible for  
11 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that  
12 justify the course of treatment of the patient, including, but not limited to, patient histories;  
13 examination results; test results; records of drugs prescribed, dispensed, or administered; and  
14 reports of consultations and hospitalizations.

15  
16 A motion was made, seconded and carried unanimously to find the Respondent has waived his  
17 right to a hearing.

18  
19 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

20  
21 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

22  
23 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
24 Statutes as charged.

25  
26 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

27  
28 A motion was made, seconded and carried unanimously to waive costs.

29  
30 **Penalty imposed:** revoked; costs waived

31  
32 **Manuel A. Batlle, M.D., Naples, FL – Settlement Agreement .....8**

33 Dr. Batlle was present and represented by Gregory Chaires, Esquire.

34  
35 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

The Respondent agreed to waive attorney's fees and costs.

A motion was made, seconded and carried with three opposed to dismiss the case.

**Action taken:** Administrative Complaint dismissed

### **Final Order Compliance Issues:**

#### **Norman Moskowitz, M.D. – Petition for Reinstatement .....33**

Dr. Moskowitz was present and represented by John Strohsahl, Esquire.

A motion was made, seconded and carried unanimously to deny Dr. Moskowitz's petition.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 **Action taken:** petition for reinstatement denied

2  
3 **Jorge Valido, M.D. – Motion for Reconsideration .....34**

4 Dr. Valido's attorney had an emergency in Orlando and had to leave prior to the Board hearing  
5 this motion. He requested this matter be withdrawn for this meeting and rescheduled for the  
6 June Board Meeting.

7  
8 Action taken: motion rescheduled

9  
10 **George Roll, P.A. - Request for Modification of the Final Order .....35**

11 Mr. Roll was not present nor was he represented by counsel.

12  
13 Ms. Sanford read an email from a risk manager into record. She advised Mr. Roll had undergone  
14 the required risk management assessment.

15  
16 A motion was made, seconded and carried unanimously to deny Mr. Roll's request for  
17 modification of the Final Order.

18  
19 **Action taken:** request denied

20  
21 **Charles DeMarco, M.D. – Motion for Reconsideration .....36**

22 Dr. DeMarco was present and represented by Allen Grossman, Esquire.

23  
24 A motion was made, seconded and carried unanimously to reconsider the case.

25  
26 A motion was made and seconded to dismiss the case. The motion failed.

27  
28 Both parties agreed to the original Settlement Agreement and to the amount of costs.

29  
30 A motion was made, seconded and carried unanimously to accept the proposed Settlement  
31 Agreement.

32  
33 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws and Rules course; suspended  
34 indefinitely until he appears before the Board and demonstrates that his license in all  
35 jurisdictions are unencumbered; Board retains jurisdiction to impose additional terms at  
36 reinstatement

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Raul J. Sora Rodriguez, M.D. – Petition for Reinstatement .....38**

This matter was withdrawn by the Petitioner prior to the meeting.

**Action taken:** none

**Petitions for Declaratory Statements:**

**Nova Southeastern University, Jennifer Fass, PharmD, CPh, Irina Gonzalez, Student Pharmacist, Rank Bellido de Luna II, Student Pharmacist RE: Rule 64B8-9.012, FAC**

**.....39**

No one was present in support of the petition.

A motion was made, seconded and carried unanimously to deny the petition on the basis that the requestor lacks standing to bring forth this petition.

**Action taken:** petition denied

**Requests for AHCA Exemptions:**

**Timothy Anderson, M.D.....41**

Dr. Anderson was present, but not represented by counsel.

A motion was made, seconded and carried unanimously to grant the exemption.

**Action taken:** exemption granted

**Lyndon Cutillar, P.A. ....42**

Mr. Cutillar was present but not represented by counsel.

A motion was made, seconded and carried unanimously to grant the exemption.

**Action taken:** exemption granted

**Donald W. Crowe, M.D. ....43**

This matter was withdrawn by the Requestor prior to the meeting.

**Action taken:** none

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Miguel Rebollar, M.D. ....43**

Dr. Rebollar was present but not represented by counsel.

A motion was made, seconded and carried unanimously to grant the exemption.

**Action taken:** exemption granted

**Attorney Fee Case:**

**Roger L. Gordon, M.D. vs. Board of Medicine .....66**

Ms. Kiesling presented this matter to the Board and advised the Department settled with Dr. Gordon for \$6,000.

Mr. Tellechea advised that due to time constraints, he presented this Settlement Agreement to the Chairman for temporary approval, which he granted.

A motion was made, seconded and carried unanimously to award Dr. Gordon \$6,000 in attorney fees and costs.

**Action taken:** Settlement Agreement accepted

**Board Counsel's Remarks: .....No tab**

Mr. Tellechea advised there is one pending rule challenge in Burns vs. Board of Medicine wherein he challenged the Board's authority to impose community service as a penalty in disciplinary cases. He advised the Board already approved community service be stricken from the disciplinary guidelines.

**Board Director's Remarks:.....No tab**

Ms. Tootle advised the 2012 Legislative Session was over. She said the next step would be implementation of the bills.

Ms. Tootle outlined Ms. Prine's visits to medical schools to present the online application process.

Ms. Tootle also advised the Federation of State Medical Board's Annual Meeting was at the end of the month and Dr. Orr was approved as the Board's voting delegate. She said that she and Dr. Orr would report on the meeting at the Board's June meeting.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

Ms. Tootle also advised that she and Ms. Prine will be attending the Administrators in Medicine Meeting also at the end of the month.

Ms. Tootle recognized Board staff for their efforts to improve the processes. She reminded the Board this is a work in process and asked for their patience. She said she appreciated Ms. Sanford and her staff for taking on these challenges.

### **Federation of State Medical Boards:**

#### **Resolution 12-1 ABMS and AOA BOS Certification .....62**

A motion was made, seconded and carried unanimously to support this resolution.

**Action taken:** resolution supported

#### **Resolution 12-2 Ethics and Professionalism Committee .....63**

A motion was made, seconded and carried unanimously to support this resolution.

**Action taken:** resolution supported

#### **Resolution 12-3 MOC and OCC Programs to Meet CME Requirements .....64**

A motion was made and seconded to support this resolution in concept but to allow Dr. Orr to use his judgment in voting after hearing the presentation. This motion was withdrawn.

A motion was made, seconded and carried unanimously to remain neutral on this resolution, but to allow Dr. Orr to use his judgment in voting after hearing the presentation.

**Action taken:** neutral on resolution, Dr. Orr to use his judgment in voting

#### **Resolution 12-4 Platinum Standard Certification for Licensure .....65**

A motion was made, seconded and carried unanimously to support this resolution in concept.

Dr. Rosenberg advised this resolution would require Legislative action in Florida.

**Action taken:** resolution supported in concept

#### **Resolution 12-5 Certifying as a CME Provider .....72**

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 A motion was made, seconded and carried unanimously to support this resolution.

2  
3 **Action taken:** resolution supported

4  
5 Resolution 12-6 Physician Assistant Initiative .....61

6 A motion was made, seconded and carried unanimously to oppose this resolution.

7  
8 **Action taken:** resolution opposed

9  
10 **Department Remarks:** .....No tab

11 Ms. Donnelly addressed the Board. She thanked Dr. Rosenberg for his participation on the work  
12 done on the memo to the Board. She said the memo is much easier to read and more clear as a  
13 result. She asked for the Board's continued input as it helped PSU to focus on the Board's  
14 needs.

15  
16 Ms. Donnelly reported the 2008 or older cases has been reduced to 50 cases. She advised there  
17 are also 28 cases pending before the Division of Administrative Hearings. She said the number  
18 of active cases is 1089 which is down from the previous 1,400-1,500 cases. She pointed out her  
19 attorneys negotiated voluntary relinquishments on some major cases for this meeting.

20  
21 Ms. Donnelly also thanked Dr. Rosenberg for allowing more prosecutors to present their cases at  
22 this meeting.

### **COMMITTEE REPORTS:**

24  
25  
26 **Expert Witness Committee Conference Call.....68**

27 Dr. Tucker provided the report for the conference call held March 5, 2012.

28  
29 A motion was made, seconded and carried unanimously to approve the report.

30  
31 **Action taken:** report approved

### **Approval of Meeting Minutes:**

32  
33  
34  
35 **February 3-4, 2012 Meeting .....69**

36 A motion was made, seconded and carried unanimously to approve the minutes as written.



April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 **Action taken:** minutes approved

2  
3 **Ratification of Applicants Pursuant to Chapter 458, FS.....70**

4 A motion was made, seconded and carried unanimously to ratify the licensure lists provided.

5  
6 **Action taken:** licenses ratified

7  
8 **DISCUSSION:**

9 Dr. Rosenberg asked the Board how their felt the changes in the Settlement Agreement process  
10 went that day. He said it seemed if there was a technical issue it was handled and the rest were  
11 heard by the Board.

12  
13 The meeting adjourned at 3:46 p.m.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Saturday, April 14, 2012**

**8:00 a.m. ROLL CALL**

**Members Present:**

Jason J. Rosenberg, M.D., Chairman  
Zachariah P. Zachariah, M.D., Vice Chairman  
Nabil El Sanadi, M.D., 1<sup>st</sup> Vice Chairman  
Elisabeth Tucker, M.D.  
Merle Stringer, M.D.  
Magdalena Averhoff, M.D.  
Robert Nuss, M.D.  
Fred Bearison, M.D. (left at 9:30)  
James Orr, Jr., M.D.  
Gary Wnchester, M.D.  
Brigette Goersch, Consumer Member  
Bradley Levine, Consumer Member  
Onelia Lage, M.D.  
George Thomas, M.D. (left at 9:15)

**Staff Present:**

Joy A. Tootle, J.D., Executive Director  
Ed Tellechea, Esq., Board Counsel  
Donna McNulty, Esq., Board Counsel  
Nancy Murphy, Paralegal  
Crystal A. Sanford, CPM, Program Operations Administrator  
Chandra Prine, Program Operations Administrator  
Whitney Bowen, Regulatory Specialist III  
Shaila Washington, Compliance Officer

**Prosecuting Attorneys Present:**

Veronica Donnelly, Esquire  
Jonathan Zachem, Esquire  
Diane Kiesling, Esquire  
Carol Gregg, Esquire

Ms. Tootle provided an outline of the various types of hearings being presented before the Board.

**Members Absent:**

Donald E. Mullins, Consumer member

**Others Present:**

Statewide Reporting

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Disciplinary Case Schedule Continued:**

**Elizabeth Elaine Neel, M.D., Callaway, FL – Settlement Agreement .....23**

Mr. Tellechea advised this case had been requested to be continued.

A motion was made, seconded and carried unanimously to table this hearing until the next meeting.

**Action taken:** continued until next meeting

A motion was made, seconded and carried unanimously to remove community service from all Settlement Agreements scheduled for the day.

Ms. Sanford read the Settlement Agreement list and determined which cases would be heard by the Board.

**Christopher K. Vincent, M.D., Roanoke & Winchester, VA - Settlement Agreement**

**.....44**

Mr. Levine was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$3,000 fine, costs

**Sakeena Baccas, P.A., Lakeland, FL – Settlement Agreement.....45**

Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2010) –  
2 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
3 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
4 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
5 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
6 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
7 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
8 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
9 in this paragraph shall be construed to require that a physician be incompetent to practice  
10 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
11 administrative law judge or a final order of the board finding a violation under this paragraph  
12 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
13 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
14 publication by the board must so specify and s. 456.072(1)(bb), FS (2010) – – Performing or  
15 attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong  
16 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or  
17 otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this  
18 paragraph, performing or attempting to perform health care services includes the preparation of  
19 the patient.

20 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

21  
22 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 1-hour  
23 lecture  
24

### 25 **Tatiana Eisner, M.D., Ft. Lauderdale, FL – Settlement Agreement .....46**

26 Dr. Winchester and Mr. Mullins were recused due to participation on the probable cause panel.  
27

28 Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2009) –  
29 Performing or attempting to perform health care services on the wrong patient, a wrong-site  
30 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically  
31 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the  
32 purposes of this paragraph, performing or attempting to perform health care services includes the  
33 preparation of the patient.  
34

35 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.  
36

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 1-hour lecture

**Andrew Kerwin, M.D., Jacksonville, FL – Settlement Agreement .....49**

Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 1-hour lecture

**Noreen Durrani, M.D., Florence, KY & Jacksonville, FL – Settlement Agreement .51**

Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 1-hour lecture

**Eliezer Hernandez, M.D., Wellington, FL – Settlement Agreement .....52**

Dr. Stringer and Mr. Mullins were recused due to participation on the probable cause panel.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having  
2 a license or the authority to practice medicine revoked, suspended, or otherwise acted against,  
3 including the denial of licensure, by the licensing authority of any jurisdiction, including its  
4 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of  
5 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation  
6 of the filing of administrative charges against the physician’s license, shall be construed as action  
7 against the physician’s license.

8  
9 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

10  
11 **Penalty imposed:** reprimand, \$2,500 fine, costs, Laws and Rules course

12  
13 **Jose Celedonio Bengochea, M.D., Miami Beach, FL – Settlement Agreement .....7**

14 Mr. Mullins was recused due to participation on the probable cause panel.

15  
16 Allegations of the Administrative Complaint: Violation of s. 456.072(1)(cc), FS (2009) –  
17 Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other  
18 paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the  
19 purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in  
20 the best interest of the patient and is not within the standard of care of the profession, regardless  
21 of the intent of the professional.

22  
23 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

24  
25 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 1-hour lecture

26  
27 **VOLUNTARY RELINQUISHMENTS:**

28  
29 **Bruce Wayne Blackwell, M.D., Kissimmee, FL .....60**

30 Dr. Blackwell was not present nor was he represented by counsel.

31  
32 **Case number 2006-12281**

33 Dr. Lage and Ms. Goersch were recused due to participation on the probable cause panel.

34 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006-2007) –  
35 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
36 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.

**April 13-14, 2012**

---

## **DRAFT MEETING MINUTES**

1 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
2 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
3 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
4 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
5 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
6 in this paragraph shall be construed to require that a physician be incompetent to practice  
7 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
8 administrative law judge or a final order of the board finding a violation under this paragraph  
9 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
10 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
11 publication by the board must so specify; s. 458.331(1)(m), FS (2006-2007) – Failing to keep  
12 legible, as defined by department rule in consultation with the board, medical records that  
13 identify the licensed physician or the physician extender and supervising physician by name and  
14 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
15 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
16 including, but not limited to, patient histories; examination results; test results; records of drugs  
17 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s.  
18 458.331(1)(q), FS (2006-2007) – Prescribing, dispensing, administering, mixing, or otherwise  
19 preparing a legend drug, including any controlled substance, other than in the course of the  
20 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed  
21 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,  
22 including all controlled substances, inappropriately or in excessive or inappropriate quantities is  
23 not in the best interest of the patient and is not in the course of the physician's professional  
24 practice, without regard to his or her intent.

25 Case number 2011-01686

26 Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.  
27

28 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2009) –  
29 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and  
30 s. 458.331(1)(j), FS (2009) - Exercising influence within a patient-physician relationship for  
31 purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of  
32 giving free, full, and informed consent to sexual activity with his or her physician.  
33

34 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
35 of license.  
36

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Penalty imposed:** license relinquished

**Ronald John Lewis, M.D. – St. Augustine, FL .....53**

Dr. Lewis was not present nor was he represented by counsel.

Dr. Bearison was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Penalty imposed:** license relinquished

**Moraima Guevara, M.D., Miami, FL.....54**

Dr. Guevara was not present nor was she represented by counsel.

Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(s), FS (2010-2011) - Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Penalty imposed:** license relinquished



April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Roni Eliezer Dreszer, M.D. - Miami, FL .....55**

Dr. Dreszer was not present nor was she represented by counsel/

Ms. Goersch was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2009) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(q), FS (2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Penalty imposed:** license relinquished

**Juan Richards, M.D. – Orlando, FL .....56**

Dr. Richards was not present nor was he represented by counsel.

Dr. Lage and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(k), FS (2007) – Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine; s. 458.331(1)(d), FS (2007) – False, deceptive, or misleading advertising; and s. 458.331(1)(l), FS (2007) – Advertising or holding oneself out as a board-certified specialist, if not qualified under s. 458.3312, in violation of this chapter.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Penalty imposed:** license relinquished

**Jose G. Valiente, M.D., Miami, FL .....57**

Dr. Valiente was

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Penalty imposed:** license relinquished

**Sanford J. Pukel, N.C. – Coral Gables, FL .....58**

Mr. Pukel was not present nor was he represented by counsel.

Probable cause was waived in this case.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1  
2 Allegations of the Administrative Complaint: Violation of s. 468.518(1)(n), FS (2008) –  
3 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.  
4

5 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
6 of license.  
7

8 **Penalty imposed:** license relinquished  
9

10 **Richard W. Hays, M.D., Kissimmee, FL .....59**

11 Dr. Hays was not present nor was he represented by counsel.  
12

13 Case number 2007-33620

14 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

15 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006-2007) –  
16 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
17 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
18 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
19 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
20 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
21 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
22 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
23 in this paragraph shall be construed to require that a physician be incompetent to practice  
24 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
25 administrative law judge or a final order of the board finding a violation under this paragraph  
26 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
27 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
28 publication by the board must so specify; s. 458.331(1)(m), FS (2006-2007) – Failing to keep  
29 legible, as defined by department rule in consultation with the board, medical records that  
30 identify the licensed physician or the physician extender and supervising physician by name and  
31 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
32 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
33 including, but not limited to, patient histories; examination results; test results; records of drugs  
34 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s.  
35 458.331(1)(q), FS (2006-2007) – Prescribing, dispensing, administering, mixing, or otherwise  
36 preparing a legend drug, including any controlled substance, other than in the course of the

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed  
2 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,  
3 including all controlled substances, inappropriately or in excessive or inappropriate quantities is  
4 not in the best interest of the patient and is not in the course of the physician's professional  
5 practice, without regard to his or her intent; and s. 458.331(1)(nn), FS (2006-2007) – Violating  
6 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

7  
8 Case number 2007-37427

9 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

10 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006-2007) –  
11 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
12 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
13 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
14 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
15 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
16 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
17 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
18 in this paragraph shall be construed to require that a physician be incompetent to practice  
19 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
20 administrative law judge or a final order of the board finding a violation under this paragraph  
21 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
22 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
23 publication by the board must so specify; s. 458.331(1)(m), FS (2006-2007) – Failing to keep  
24 legible, as defined by department rule in consultation with the board, medical records that  
25 identify the licensed physician or the physician extender and supervising physician by name and  
26 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
27 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
28 including, but not limited to, patient histories; examination results; test results; records of drugs  
29 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s.  
30 458.331(1)(q), FS (2006-2007) – Prescribing, dispensing, administering, mixing, or otherwise  
31 preparing a legend drug, including any controlled substance, other than in the course of the  
32 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed  
33 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,  
34 including all controlled substances, inappropriately or in excessive or inappropriate quantities is  
35 not in the best interest of the patient and is not in the course of the physician's professional

**April 13-14, 2012**

---

## **DRAFT MEETING MINUTES**

1 practice, without regard to his or her intent; and s. 458.331(1)(nn), FS (2006-2007) – Violating  
2 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

3 Case number 2007-37622

4 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

5 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006-2007) –  
6 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
7 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
8 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
9 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
10 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
11 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
12 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
13 in this paragraph shall be construed to require that a physician be incompetent to practice  
14 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
15 administrative law judge or a final order of the board finding a violation under this paragraph  
16 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
17 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
18 publication by the board must so specify; s. 458.331(1)(m), FS (2006-2007) – Failing to keep  
19 legible, as defined by department rule in consultation with the board, medical records that  
20 identify the licensed physician or the physician extender and supervising physician by name and  
21 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
22 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
23 including, but not limited to, patient histories; examination results; test results; records of drugs  
24 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s.  
25 458.331(1)(q), FS (2006-2007) – Prescribing, dispensing, administering, mixing, or otherwise  
26 preparing a legend drug, including any controlled substance, other than in the course of the  
27 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed  
28 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,  
29 including all controlled substances, inappropriately or in excessive or inappropriate quantities is  
30 not in the best interest of the patient and is not in the course of the physician's professional  
31 practice, without regard to his or her intent; s. 458.331(1)(nn), FS (2006-2007) – Violating any  
32 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

33  
34 Case number 2007-31556

**April 13-14, 2012**

---

## **DRAFT MEETING MINUTES**

1 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

2 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006-2007) –  
3 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
4 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
5 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
6 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing  
7 repeated medical malpractice as defined in s. 456.50. A person found by the board to have  
8 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to  
9 be licensed by this state to provide health care services as a medical doctor in this state. Nothing  
10 in this paragraph shall be construed to require that a physician be incompetent to practice  
11 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an  
12 administrative law judge or a final order of the board finding a violation under this paragraph  
13 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
14 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
15 publication by the board must so specify; s. 458.331(1)(m), FS (2006-2007) – Failing to keep  
16 legible, as defined by department rule in consultation with the board, medical records that  
17 identify the licensed physician or the physician extender and supervising physician by name and  
18 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
19 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
20 including, but not limited to, patient histories; examination results; test results; records of drugs  
21 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s.  
22 458.331(1)(q), FS (2006-2007) – Prescribing, dispensing, administering, mixing, or otherwise  
23 preparing a legend drug, including any controlled substance, other than in the course of the  
24 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed  
25 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,  
26 including all controlled substances, inappropriately or in excessive or inappropriate quantities is  
27 not in the best interest of the patient and is not in the course of the physician's professional  
28 practice, without regard to his or her intent; and s. 458.331(1)(nn), FS (2006-2007) – Violating  
29 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

30  
31 Case number 2008-03641

32 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

33 Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006-2007) –  
34 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical

**April 13-14, 2012**

---

## **DRAFT MEETING MINUTES**

malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2006-2007) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(q), FS (2006-2007) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; and s. 458.331(1)(nn), FS (2006-2007) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

### Case number 2010-19194

Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2009-2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have

**April 13-14, 2012**

---

## **DRAFT MEETING MINUTES**

committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2009-2010) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(q), FS (2009-2010) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; and s. 458.331(1)(nn), FS (2009-2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

### Case number 2011-13923

Mr. Mullins was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2010-2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an



April 13-14, 2012

---

## DRAFT MEETING MINUTES

administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS (2010-2011) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(q), FS (2010-2011) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; s. 458.331(1)(nn), FS (2010-2011) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(j), FS (2010-2011) - Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Penalty imposed:** license relinquished

**Matthew S. Smith, M.D., Lakeland, FL – Settlement Agreement .....47**

Dr. Smith was present and represented by Bruce Lamb, Esquire.

Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or

April 13-14, 2012

---

## DRAFT MEETING MINUTES

1 attempting to perform health care services includes the preparation of the patient and s.  
2 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any rules  
3 adopted pursuant thereto.

4  
5 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

6  
7 The Board asked PSU to refer this matter to AHCA.

8  
9 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 5 hours CME in risk management, 1-hour  
10 lecture

11  
12 **Steven M. LeVine, M.D., St. Petersburg, FL – Settlement Agreement .....48**

13 Dr. LeVine was present and represented by Troy Cotts, Esquire.

14  
15 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

16 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
17 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006) – Notwithstanding s.  
18 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.  
19 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this  
20 paragraph. Medical malpractice shall not be construed to require more than one instance, event,  
21 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice  
22 as defined in s. 456.50. A person found by the board to have committed repeated medical  
23 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
24 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
25 construed to require that a physician be incompetent to practice medicine in order to be  
26 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
27 final order of the board finding a violation under this paragraph shall specify whether the  
28 licensee was found to have committed "gross medical malpractice," "repeated medical  
29 malpractice," or "medical malpractice," or any combination thereof, and any publication by the  
30 board must so specify and s. 458.331(1)(m), FS (2006) – Failing to keep legible, as defined by  
31 department rule in consultation with the board, medical records that identify the licensed  
32 physician or the physician extender and supervising physician by name and professional title  
33 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or  
34 treatment procedure and that justify the course of treatment of the patient, including, but not  
35 limited to, patient histories; examination results; test results; records of drugs prescribed,  
36 dispensed, or administered; and reports of consultations and hospitalizations.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1  
2 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

3  
4 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 3 hours CME in myopathic conditions, 5  
5 hours CME in risk management

6  
7 **Michael Dow Gilmore, M.D., Crestview & Marianna, FL – Settlement Agreement 50**

8 Dr. Gilmore was

9  
10 Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.

11 Dr. Rosenberg advised he knew the physician but could still be objective in his voting.

12 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
13 Administrative Complaint: Violation of s. 458.331(1)(t), FS (2006) – Notwithstanding s.  
14 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.  
15 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this  
16 paragraph. Medical malpractice shall not be construed to require more than one instance, event,  
17 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice  
18 as defined in s. 456.50. A person found by the board to have committed repeated medical  
19 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
20 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
21 construed to require that a physician be incompetent to practice medicine in order to be  
22 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
23 final order of the board finding a violation under this paragraph shall specify whether the  
24 licensee was found to have committed "gross medical malpractice," "repeated medical  
25 malpractice," or "medical malpractice," or any combination thereof, and any publication by the  
26 board must so specify and s. 458.331(1)(m), FS (2006) – Failing to keep legible, as defined by  
27 department rule in consultation with the board, medical records that identify the licensed  
28 physician or the physician extender and supervising physician by name and professional title  
29 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or  
30 treatment procedure and that justify the course of treatment of the patient, including, but not  
31 limited to, patient histories; examination results; test results; records of drugs prescribed,  
32 dispensed, or administered; and reports of consultations and hospitalizations.

33 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Penalty imposed:** letter of concern, \$7,500 fine, costs, 5 hours CME in risk management, FMA records course

**Guillermo J. Llosa, M.D., Miami, FL – Settlement Agreement .....11**  
Dr. Llosa was present and represented by Monica Rodriguez, Esquire.

Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel. Dr. Lage recused herself because she had prior knowledge of the case.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(t), FS (2000) – Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

The Board said this would be a good communications opportunity for the Communication Committee.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management

**Peter T. Di Napoli, M.D., Palm Harbor, FL – Settlement Agreement.....20**  
Dr. Di Napoli was present and represented by Brian Newman, Esquire.

Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 456.072(1)(bb), FS (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient and s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

April 13-14, 2012

---

## DRAFT MEETING MINUTES

**Penalty imposed:** letter of concern, \$2,500 fine, costs, 1-hour lecture

**John Edward Jeffrey, Jr, M.D., Gainesville, FL – Settlement Agreement.....15**

Dr. Jeffrey was present and represented by Brian Newman, Esquire.

Dr. Bearison was recused due to participation on the probable cause panel. Dr. Rosenberg advised her has worked with the Respondent in the past, but could remain objective in voting.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$2,500 fine, costs, FMA records course, 5 hours CME in risk management

**FINAL ORDER COMPLIANCE ISSUE:**

**Paul Rodriguez, M.D. – Request to Lift Restrictions .....71**

Dr. Rodriguez was present but not represented by counsel. He provided evidence that his license in Oklahoma was free from all encumbrances and requested the restriction from supervising Physician Assistant's (PA's) be lifted from his license.

A motion was made, seconded and carried unanimously to lift the restrictions against Dr. Rodriguez's license.

**Action taken:** restriction lifted

**PETITION FOR DECLARATORY STATEMENT:**

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Timothy Hipp, M.D. RE: s. 458.347, FS .....40**

Dr. Hipp was present but not represented by counsel. He was requesting approval for his PA to do lapband adjustments under indirect supervision.

Dr. Rosenberg advised he works with Dr. Hipp but could be objective in his voting.

A motion was made, seconded and carried unanimously to approve the petition for these particular circumstances and this particular PA with her amount of training and coursework.

**Action taken:** petition approved

**For Your Information (Information Only): Technology Projects Update .....No tab**

This was provided for information only.

**COMMITTEE REPORTS:**

**Dietetics-Nutrition/Electrolysis Committee**

Mr. Levine provided the report for the conference call held March 5, 2012.

A motion was made, seconded and carried unanimously to approve the report.

**Action taken:** report approved

**Surgical Care/Quality Assurance Committee**

Dr. Orr provided the report for the meeting held April 12, 2012.

A motion was made, seconded and carried unanimously to approve the report.

Mr. Tellechea advised he would look at the petition for waiver or variance previously granted related to this case.

Dr. Orr said he and Mr. Tellechea would have a discussion regarding telemedicine.

**Action taken:** report approved

**Credentials Committee Meeting**

Dr. Nuss provided the report for the meeting held April 12, 2012.

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

1  
2 A motion was made, seconded and carried unanimously to approve the report.

3  
4 **Action taken:** report approved

5  
6 **Rules/Legislative Committee Meeting**

7 Dr. Zachariah provided the report for the meeting held April 12, 2012.

8  
9 A motion was made, seconded and carried unanimously to approve the report.

10  
11 **Action taken:** report approved

12  
13 **Communication, Education and Information Committee**

14 Ms. Goersch provided the report for the meeting held April 12, 2012. She advised the new web  
15 site would be [www.FLBoardofMedicine.gov](http://www.FLBoardofMedicine.gov) and we would be purchasing all domain names.

16 She also advised some of the communication ideas included putting a new law or rule on the web  
17 site each month and/or in the newsletter, putting out information on the Board's activities at the  
18 meetings and including case studies.

19  
20 A motion was made, seconded and carried unanimously to approve the report.

21  
22 **Action taken:** report approved

23  
24 **Finance & Process Accountability Committee**

25 Dr. Orr provided the report for the meeting held April 12, 2012 for Mr. Mullins.

26  
27 A motion was made, seconded and carried unanimously to approve the report.

28  
29 **Action taken:** report approved

30  
31 **Probation Committee Meeting**

32 Dr. Winchester provided the report for the meeting held April 12, 2012.

33  
34 A motion was made, seconded and carried unanimously to approve the report.

35  
36 **Action taken:** report approved

April 13-14, 2012

---

**DRAFT MEETING MINUTES**

**Dietetics-Nutrition/Electrolysis Committee Conference Call .....67**

This report was not heard at the meeting.

**Action taken:** none

**New Business**

Dr. Zachariah expressed concern about Thursday's meeting schedule. He suggested running two meeting rooms simultaneously. He also suggested putting Credentials and Probation in the same room.

Ms. Tootle advised she would discuss this with Mr. Tellechea. They would need to figure out the logistics to ensure board counsel is present at all meetings and that the defense bar and PRN can be at the appropriate meetings.

**Board Chair's Remarks: .....No tab**

Dr. Rosenberg thanked Dr. Orr and Mr. Levine for attending the FSMB annual meeting.

Dr. Rosenberg also thanked PSU for their willingness to improve. He also thanked Board staff for the same reason.

Dr. Rosenberg again welcomed Dr. Averhoff and welcomed back Dr. Lage.

The meeting adjourned at 10:18 am.